



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 22, 1998

Mr. Mark E. Dempsey
Assistant City Attorney
City of Garland
P.O. Box 469002
Garland, Texas 75046-9002

OR98-1022

Dear Mr. Dempsey:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 114936.

The City of Garland (the "city") received an open records request for a particular police report pertaining to the arrest of two individuals. You state that you have released to the requestor the "basic" front page offense report information in compliance with *Houston Chronicle Publishing Company v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). You seek to withhold the remaining information in the report, which you have highlighted in yellow, pursuant to section 552.108 of the Government Code because the criminal charges resulting from the arrests are "currently pending" and "the first setting is scheduled for March 2, 1998."

Section 552.108(a) of the Government Code, as amended by the Seventy-fifth Legislature, excepts from required public disclosure

[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if:

- (1) release of the information would interfere with the detection, investigation, or prosecution of crime;
- (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state

When a criminal investigation or prosecution is pending, this office will presume that the release of information pertaining to the investigation or prosecution will “interfere with the detection, investigation, or prosecution of crime” for purposes of section 552.108(a)(1). *But see* Gov’t Code § 552.108(c) (“basic information about an arrested person, an arrest, or a crime” not protected by section 552.108). Assuming the prosecution of the criminal charges is still pending, we conclude that the city may, with the exception of front page information, withhold the requested information at this time pursuant to section 552.108(a)(1).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Vickie Prehoditch
Assistant Attorney General
Open Records Division

VDP/RWP/glg

Ref.: ID# 1149396

Enclosures: Submitted documents

cc: Mr. Charles Lasater
1206 Garden Gate Circle
Garland, Texas 75043
(w/o enclosures)